



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: AUGUST 19, 2022

IN THE MATTER OF:

Appeal Board No. 622851

PRESENT: MARILYN P. O'MARA, MEMBER

The Department of Labor issued the initial determination, disqualifying the claimant from receiving benefits, effective May 18, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed April 11, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the employer.

Our review of the record reveals that the case should be remanded to hold a further hearing. The record was not sufficiently developed on the determination of voluntary separation. The parties should have another opportunity to submit additional testimony and other evidence on this issue.

The claimant raised an issue regarding a medical condition which necessitated his quitting his employment. At the further hearing the parties will testify regarding the claimant's conversations with his doctor about his medication regimen; as to increases in his prescribed medication used to treat his condition; whether the increases and/or changes in his condition was related to his employment; what was discussed as to a leave of absence or resignation;

whether the increase in medication was successful as of May 2021; whether the claimant contacted his doctor prior to resigning from his employment; whether the claimant advised the employer of his medical condition and/or his doctor's advice regarding his medical condition. Any documentary evidence in support of such testimony regarding his medical condition, shall be produced at the hearing for entrance into the record after an opportunity for objection.

The Administrative Law Judge will then take any such additional testimony necessary to complete the record.

Now, based on the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER
AE:ER